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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,388	09/08/2003	Mark Lancaster	031264.077A	9417

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EXAMINER

MOONEY, MICHAEL P

ART UNIT PAPER NUMBER

2883

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,388

Applicant(s)

LANCASTER ET AL

Examiner

Michael P. Mooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-22 is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement..

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/5/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Applicant's election of claims 1-22 in the reply filed on 5/2/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-2, 4, 9-10 are rejected under 35 U.S.C. 102b as being anticipated by Register et al. (6049647).**

Register et al. teaches an electrical cable comprising: a conducting core (fig. 1, 2; col. 4 lines 43-50); a layer of insulation 18 surrounding the core (col. 4 lines 55-63); a corrugated welded armor 50 surrounding the insulation layer (col. 5 lines 62-67); a holding member containing an optic fiber arranged longitudinally along the cable (see, e.g., 16 of fig. 2); and at least one strength member adjacent the holding member providing additional protection to the optic fiber (see various strength members 32 adjacent the optical fiber 16 in, e.g., fig. 2).

Thus claim 1 is met.

Register et al. teaches two strength members adjacent the holding member at, e.g., fig. 2 (at least 2 strength members are adjacent the optical fiber(s) closest to the label "16"). Thus claim 2 is met.

Register et al. teaches wherein the strength member is an electrically conductive material (col. 5 lines 12-35). Thus claim 4 is met.

Register et al. teaches wherein the strength members are on opposite sides of the holding member. (fig. 2). Thus claim 9 is met.

Register et al. teaches wherein the diameter of the strength member is greater than the diameter of the holding member. (fig. 2). Thus claim 10 is met.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 3, 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Register et al. (6049647).**

Register et al. teaches an electrical cable comprising: a conducting core (fig. 1, 2; col. 4 lines 43-50); a layer of insulation 18 surrounding the core (col. 4 lines 55-63); a corrugated welded armor 50 surrounding the insulation layer (col. 5 lines 62-67); a holding member containing an optic fiber arranged longitudinally along the cable (see, e.g., 16 of fig. 2); and at least one strength member adjacent the holding member providing additional protection to the optic fiber (see various strength members 32 adjacent the optical fiber 16 in, e.g., fig. 2).

Although Register et al. does not explicitly state that the strength member(s) 32 is/are "attached" to holding members it would have been obvious to do so because Register et al. teaches that water blocking yarns are disposed in interstices S (col. 5 lines 45-50) thus creating an attachment between strength members 32 and holding member(s), such as but not limited to water blocking tape 37.

Thus claim 3 is rejected.

Register et al. teaches wherein the strength member is an electrically conductive material (col. 5 lines 12-35).

Although Register et al. does not explicitly state that the conductors 32 are copper, it would have been obvious to do so because it is conventional to use copper as the material for electrical conductors. Thus claim 5 is rejected.

Although Register et al. does not explicitly state wherein the strength member is attached to the holding member by polyethylene, it would have been obvious to do so

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because it is typical for yarns to be made of polyethylene in this type of structure. Thus claim 6 is rejected.

### ***Allowable Subject Matter***

Claims 7-8, 11-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art, either alone or in combination, does not disclose or render obvious the unique combination of each and every specific element stated in each of claims 7-8, and 11-22.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1562.



Michael P. Mooney  
Examiner  
Art Unit 2883



Frank G. Font  
Supervisory Patent Examiner  
Art Unit 2883

FGF/mpm  
7/11/05